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In The

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Supreme Court of the United States

ROBERT LITOFF,

Petitioner,

v.

HELEN PINTER,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF NORTH DAKOTA

PETITION FOR WRIT OF CERTIORARI
WITH APPENDIX

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Questions Presented

1) Was Petitioner denied constitutional due process when the North Dakota Supreme Court's summarily affirmed the Grand Forks County District Court's denial of an evidentiary hearing to determine whether changed circumstances justified reinstatement of unsupervised visitation with Petitioner's 16 year old daughter, Dorothy?

2) Does the North Dakota Supreme Court's decisive weight given to the shockingly unreliable and unscientific testimony of a mental health professional regarding Petitioner's daughter's credibility and Petitioner's threat to her emotional health violate Petitioner's due process right to a reasonably reliable determination of the propriety of unsupervised visitation?

3) Did the North Dakota Supreme Court disregarded this Court's precedents by summarily affirming the Grand Forks County District Court's dismissal of Petitioner's unopposed Motion for Reinstitution of Unsupervised Visitation, the equivalent in the eyes of the law to a consensus between Dorothy's parents supporting unsupervised visitation by Petitioner?

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Petitioner Robert S. Litoff respectfully prays that a writ of certiorari issue to review the judgment and opinion of the North Dakota Supreme Court, entered in the above-titled proceedings on April 6, 2005.

Opinions Below

1. The October 28, 2004 Denial Order of the District Court of Grand Forks County, North Dakota is unreported and reproduced at Appendix p.3.

2. The April 6, 2005 Opinion of the Supreme Court of North Dakota is unpublished, is unreported and reproduced at Appendix p.1.

Jurisdiction

The Supreme Court of North Dakota entered its ruling summarily affirming the District Court's denial of Petitioner's Motion for Default Judgment against Respondent on April 6, 2005. The ruling, *inter alia*, rejected Petitioner's threefold due process claims to visitation with his teenage daughter Dorothy with the tacit consent of her mother; to an evidentiary hearing to determine whether changed circumstances under North Dakota law justified visitation; and, to a reasonably reliable determination of whether visitation would threaten harm to Dorothy's well-being. The jurisdiction of this Court to review the final judgment of the North Dakota Supreme Court denying each of Petitioner's three due process claim is invoked under 28 U.S.C. § 1257(a).

Constitutional Provision and Statute Involved

1. The Fourteenth Amendment of the Constitution provides that no "state [shall] deprive any person of life, liberty, or property, without due process of law."

2. NDCC § 14-09-6.6(3)(a) allows for review of a custody order inside the customary two-year window where there is "persistent and willful denial or interference with visitation."

Statement of the Case

Dorothy Litoff was born on July 30, 1988 to Petitioner Robert Litoff and Respondent Helen Pinter. Petitioner and Respondent separated in 1989 and their union was annulled on May 21, 1990. *See* Appendix p.9a. Texas state courts exercised jurisdiction over the custody-visitation issue raised by the annulment. The first Texas state court order awarded custody of Dorothy to Respondent and granted Petitioner unsupervised visitation rights with his daughter. *See* Appendix p.125a. Since that time 15 years ago, Respondent has chronically frustrated and violated Petitioner's visitation rights. A Texas district court found her guilty on nine separate occasions for refusing to surrender Dorothy to Petitioner for visitation. *See* Appendix p.25a. Respondent subsequently moved with Dorothy and her third husband, Gregory Pinter, to North Dakota after he was reassigned to Grand Forks Air Force Base. In October 2002, Respondent, through her attorney in Texas, which had retained jurisdiction of the domestic dispute, successfully moved a Texas state court to terminate Appellant's visitation rights. *See* Appendix p.10a. Petitioner then filed a Motion in November 2002 in the Grand Forks District Court, which had subsequently acquired jurisdiction from the court in Texas, to establish a new visitation schedule.

The District Court denied Petitioner's motion based primarily on the purported expert opinion of Dorothy's psychologist, Dr. Ann Simun. She opined that Petitioner had caused Dorothy emotional harm and suffering. *See* Appendix p.101-104a. The reliability of the opinion was